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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/585,263
Filing Date: June 02, 2000
Appellant(s): GORDON ET AL.

Gordon et al
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 11, 2010 appealing from the Office action mailed May 19, 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,559,549	HENDRICKS ET AL	9,1996
6,208,335	GORDON ET AL	3-2001

5,585,866	MILLER ET AL	12-1996
5,485,197	HOARTY	1-1996
5,793,364	BOLANOS ET AL	8-1998
5,951,639	MACINNIS	9-1999

(9) Grounds of Rejection

The following grounds of rejection are applicable to the appealed claims:

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks, et al. (5,559,549, of record) [Hendricks] in view of Gordon et al. (6,208,335, of record) [Gordon].

Regarding claim 1, Hendricks discloses a method comprising:

generating, at a headend, at least one graphic for a channel information window (the STTCIS is generated at a headend [network controller 214, see fig. 3], col. 13, lines 28-40, and it is the STTCIS which includes the graphics files which are stored in a set top and used to display program guide information, col. 13, lines 55-58; col. 18, lines 35-58; and col. 24, lines 7-41, see particularly col. 24, lines 31-41, which shows the local memory is written and rewritten with graphics files from the information received from the headend);

encoding, at the headend, a broadcast video presentation and the graphic for the channel information window (signal compression [for both the program control information and the video signals] is performed by the headend, col. 6, lines 27-38 and col. 9, lines 15-22), the broadcast video presentation being programming from one of a plurality of channels (col. 6, lines 38-41);

transmitting, from the headend to a set top terminal, the broadcast video presentation and the graphic for the channel information window (col. 8, lines 40-44);

receiving at the set top terminal a signal to activate the channel information window (col. 12, lines 10-22, wherein the signal to activate the information window is a user initiation of the menu system, this includes the initial menu screen associated with turning on the set top device, col. 12, lines 23-30, and active inputs from a user for viewing other menus, col. 12, lines 57-67);

decoding, at the set top terminal, the graphic for the channel information window (the graphics files are compressed upon storage in the set top, and are decompressed when it is time to assemble a menu, col. 14, lines 34-42 and col. 25, lines 57-61); and

compositing, at the set top terminal, the graphic for the channel information window and the broadcast video presentation to produce a video stream for a display (col. 18, lines 48-67) so that the channel information window overlays and obscures a portion of the broadcast video presentation on the display (col. 18, lines 11-27) wherein transmitting the graphic for the channel information window is performed via an out-of-band channel (col. 14, lines 5-6).

Hendricks fails to disclose the graphic is a bitmap and elements on a display screen can be selectively masked and displayed.

In an analogous art, Gordon teaches a system wherein downloaded graphics used in displaying overlays atop of video content are downloaded as

bitmaps (col. 7, lines 7-40) and elements on a display screen can be selectively masked and displayed (such features disclosed as providing an enhancement to the display, col. 8, lines 8-22).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method of Hendricks to download the graphics as bitmaps and elements on a display screen can be selectively masked and displayed, as taught by Gordon. Hendricks lacks any teaching as far as what specific file format the graphics are delivered to the receiver as, and it is thus up to the person of ordinary skill in the art to then decide on a file format for graphics. Gordon is evidence that it was quite well known in the art to use the bitmap format for precisely the type of graphical objects described by Hendricks, and would thus be an obvious choice to one of ordinary skill in the art. Further, Gordon teaches that selectively masking and displaying elements on a display screen provided an enhanced graphical display (i.e. more entertaining or engaging).

Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks in view of Gordon and Miller et al. (5,585,866, of record) [Miller].

Regarding claim 5, Hendricks discloses a method comprising:

generating, at a headend, a plurality of graphics for each of a plurality of channel information windows (the STTCIS is generated at a headend [network controller 214, see fig. 3], col. 13, lines 28-40, and it is the STTCIS which

includes the graphics files which are stored in a set top and used to display program guide information, col. 13, lines 55-58; col. 18, lines 35-58; and col. 24, lines 7-41, see particularly col. 24, lines 31-41, which shows the local memory is written and rewritten with graphics files from the information received from the headend);

encoding, at the headend, a plurality of broadcast video displays and the channel information windows (signal compression [for both the program control information and the video signals] is performed by the headend, col. 6, lines 27-38 and col. 9, lines 15-22), the broadcast video displays including a particular broadcast video display, each broadcast video display being programming from one of a plurality channels (col. 6, lines 38-41), the channel information windows including information about the channels (downloaded graphic elements include specific logos associated with particular channels, col. 24, lines 20-30);

transmitting, from the headend to the set top terminal, the broadcast video displays and the channel information windows (col. 8, lines 40-44); and

compositing, at the set top terminal, the particular broadcast video display and an associated one of the channel information windows to produce a video stream for a display (col. 18, lines 48-67) so that the channel information window overlays and obscures a portion of the particular broadcast video display (col. 18, lines 11-27).

Hendricks fails to disclose the graphics are bitmaps, elements on a display screen can be selectively masked and displayed, and changing, at the set top

terminal, the channel information window in response to a navigation command, while the particular broadcast video display remains the same.

In an analogous art, Gordon teaches a system wherein downloaded graphics used in displaying overlays atop of video content are downloaded as bitmaps (col. 7, lines 7-40), and elements on a display screen can be selectively masked and displayed (such features disclosed as providing an enhancement to the display, col. 8, lines 8-22).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method of Hendricks to download the graphics as bitmaps and elements on a display screen can be selectively masked and displayed, as taught by Gordon. Hendricks lacks any teaching as far as what specific file format the graphics are delivered to the receiver as, and it is thus up to the person of ordinary skill in the art to then decide on a file format for graphics. Gordon is evidence that it was quite well known in the art to use the bitmap format for precisely the type of graphical objects described by Hendricks, and would thus be an obvious choice to one of ordinary skill in the art. Further, Gordon teaches that selectively masking and displaying elements on a display screen provided an enhanced graphical display (i.e. more entertaining or engaging).

Hendricks and Gordon fail to disclose changing, at the set top terminal, the channel information window in response to a navigation command; while the particular broadcast video display remains the same.

In an analogous art, Miller teaches a channel information window overlay atop an ongoing video presentation, wherein the contents of the overlay are changed in response to a navigation command while the particular broadcast video remains the same (col. 13, lines 16-64), for the benefit of allowing a user to both enjoy a particular video program while also viewing programming information for other programs (col. 13, lines 16-20 and lines 45-48).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method of Hendricks and Gordon to include changing, at the set top terminal, the channel information window in response to a navigation command, while the particular broadcast video display remains the same, as taught by Miller, for the benefit of allowing a user to both enjoy a particular video program while also viewing programming information for other programs.

Regarding claim 8, Hendricks, Gordon, and Miller disclose the method of claim 5, wherein the navigation command in that mode navigates only through favorite channels (Miller, col. 26, lines 54-67).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks, Gordon, and Miller as applied to claim 5 above, and further in view of Hoarty (5,485,197, of record).

Regarding claim 7, Hendricks, Gordon, and Miller disclose the method of claim 5, including changing the particular broadcast video display to a new

broadcast video display upon termination of the navigation command in that mode (Miller, col. 13, lines 55-61), but fail to disclose changing the particular broadcast video display is accomplished by generating, encoding, and transmitting video packet streams at the headend

In an analogous art, Hoarty teaches a video distribution system (fig. 3) wherein changing a particular broadcast video display is accomplished by generating, encoding, and transmitting video packet streams at the headend (col. 7, lines 35-65, col. 8, lines 40-49, and col. 12, lines 15-32, wherein a particular user is allocated a particular frequency channel in order to access a very wide range of services, and a channel change command changes the content supplied on the "virtual" channel), providing a wider range of services to users than would otherwise be available.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hendricks, Gordon, and Miller to include said changing of the particular broadcast video display is accomplished by generating, encoding, and transmitting video packet streams at the headend, as taught by Hoarty, for the benefit of providing a wider range of services to users than would be possible given the finite amount of available bandwidth over a distribution medium.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks in view of Gordon and Bolanos et al. (5,793,364, of record) [Bolanos].

Regarding claims 9 and 10, Hendricks discloses a method comprising:

generating, at a headend, a broadcast video presentation and graphics for a channel information window (the STTCIS is generated at a headend [network controller 214, see fig. 3] along with video content, col. 13, lines 28-40, and it is the STTCIS which includes the graphics files which are stored in a set top and used to display program guide information, col. 13, lines 55-58; col. 18, lines 35-58; and col. 24, lines 7-41, see particularly col. 24, lines 31-41, which shows the local memory is written and rewritten with graphics files from the information received from the headend), the broadcast video presentation being programming from one of a plurality of channels (col. 6, lines 38-41);

encoding, at the headend, the broadcast video presentation and the graphic for the channel information window (signal compression [for both the program control information and the video signals] is performed by the headend, col. 6, lines 27-38 and col. 9, lines 15-22);

transmitting, from the headend to a set top terminal, the broadcast video presentation and the graphic for the channel information window (col. 8, lines 40-44);

decoding, at the set top terminal, the graphic for the channel information window (the graphics files are compressed upon storage in the set top, and are decompressed when it is time to assemble a menu, col. 14, lines 34-42 and col. 25, lines 57-61); and

compositing, at the terminal, the graphic for the channel information window and the broadcast video presentation to produce a video stream for a display (col. 18, lines 48-67) so that the channel information window overlays and obscures a portion of the particular broadcast video display (col. 18, lines 11-27).

Hendricks fails to disclose the graphics are bitmaps, wherein elements on a display screen can be selectively masked and displayed, and receiving at the headend from the terminal, a signal to active the channel information window.

In an analogous art, Gordon teaches a system wherein downloaded graphics used in displaying overlays atop of video content are downloaded as bitmaps (col. 7, lines 7-40), and elements on a display screen can be selectively masked and displayed (such features disclosed as providing an enhancement to the display, col. 8, lines 8-22).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method of Hendricks to download the graphics as bitmaps and elements on a display screen can be selectively masked and displayed, as taught by Gordon. Hendricks lacks any teaching as far as what specific file format the graphics are delivered to the receiver as, and it is thus up to the person of ordinary skill in the art to then decide on a file format for graphics. Gordon is evidence that it was quite well known in the art to use the bitmap format for precisely the type of graphical objects described by Hendricks, and would thus be an obvious choice to one of ordinary skill in the art. Further, Gordon teaches that selectively masking and displaying elements on a display

screen provided an enhanced graphical display (i.e. more entertaining or engaging).

Hendricks and Gordon fail to disclose receiving at the headend from the terminal, a signal to active the channel information window.

In an analogous art, Bolanos teaches downloading graphics for a user interface on demand (col. 3, lines 24-32), for the benefit of not having to repeatedly transmit the user interface graphics.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hendricks and Gordon to include downloading graphics for the user interface on demand [in response to an activation signal], as taught by Bolanos, for the benefit of not having to repeatedly transmit the channel information window bitmap.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks and Gordon as applied to claim 1 above, and further in view of Bolanos.

Regarding claim 13, Hendricks and Gordon disclose the method of claim 1, but fails to disclose requesting, by the set top terminal from the headend, the bitmap for the channel information window in response to the signal to activate the channel information window.

In an analogous art, Bolanos teaches downloading graphics for a user interface on demand (col. 3, lines 24-32), for the benefit of not having to repeatedly transmit the user interface graphics.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hendricks and Gordon to include downloading the graphics for the user interface on demand, as taught by Bolanos, for the benefit of not having to repeatedly transmit the channel information window bitmap.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks and Gordon as applied to claim 1 above, and further in view of MacInnis (5,951,639, of record).

Regarding claim 14, Hendricks and Gordon disclose the method of claim 1, wherein the set top terminal causes the channel information window to overlay the broadcast video presentation in response to the signal to activate the channel activation window (col. 18, lines 11-27) but fails to disclose the bitmap for the channel information window is broadcast continually.

In an analogous art, MacInnis teaches a method for downloading data wherein the data is broadcast continually (col. 4, lines 20-41), for the benefit of alleviating the need to request the data from a source (col. 4, lines 38-41).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Hendricks and Gordong to include broadcasting the data continually, as taught by MacInnis, for the benefit of alleviating any possible need to request the channel information window from the headend.

(10) Response to Argument

**A. CLAIM 1 IS PATENTABLE UNDER 35 U.S.C. 103(A) OVER
HENDRICKS AND GORDON**

First, appellant argues that Hendricks fails to disclose decoding, at the set top terminal, the bitmap for compositing with the broadcast video presentation to produce a video stream for display. Appellant supports this argument by asserting Hendricks teaches the STTCIS contains instructions to set top devices that is used in conjunction with stored content, preferably contains a minimum amount of information, and that menus may be generated from menu templates stored in the set top terminal, and after highlighting each of these various embodiments and alternative methods Hendricks disclosed, rather abruptly states Hendricks does not teach decoding graphics data (as Gordon teaches the decoded graphics files are bitmaps) that has been encoded along with broadcast video for compositing with the broadcast video presentation to produce a video stream for display.

In response, it is acknowledged that Hendricks discloses a multitude of embodiments for the manner in which on-screen menus are generated, however citing that several such embodiments do not involve encoding graphics files along with the broadcast video does not change the fact that at least one of the embodiments does.

As shown above in the grounds of rejection regarding claim 1, the examiner demonstrated that graphics for on screen displays are generated at the headend (referring to Hendricks: the STTCIS is generated at a headend [network controller 214, see fig. 3], col. 13, lines 28-40, and it is the STTCIS which includes the graphics files which are stored in a set top and used to display program guide information, col. 13, lines 55-58; col. 18, lines 35-58; and col. 24, lines 7-41, see particularly col. 24, lines 31-41, which shows the local memory is written and rewritten with graphics files from the information received from the headend), and said graphics are encoded at the headend (referring to Hendricks: signal compression [for both the program control information and the video signals] is performed by the headend, col. 6, lines 27-38 and col. 9, lines 15-22), transmitting the graphic data and broadcast video to a receiver, (Hendricks, col. 8, lines 40-44, where the program signal includes both broadcast video content and the STTCIS), which then decodes the encoded signals received from the headend to generate on screen menus from the received content (referring to Hendricks: the graphics files are compressed upon storage in the set top, and are decompressed when it is time to assemble a menu, col. 14, lines 34-42 and col. 25, lines 57-61).

Second, appellant argues that Hendricks does not teach encoding both the broadcast video presentation and the bitmap for the channel information window at the headend, stating that Hendricks instead simply provides the data

to the set top terminals, wherein the terminal itself generates the bitmap, and thus further fails to disclose decoding the bitmap at the set top terminal.

In response, the STTCIS, or more generally, the program control information signal, is explicitly stated to be encoded at the headend and sent along with broadcast video (Hendricks, col. 7 line 65 - col. 8 line 19), where the examiner has established that these encoded information signals are disclosed as including graphics that are downloaded to set top devices (Hendricks, col. 18, lines 48-58 "Using this method of storing menus, the menus can be changed by reprogramming the graphics memory of the set top terminal 220 through instructions from either the network controller 214 or operations center 202.") Contrary to appellant's assertions here and throughout, Hendricks does not teach generating the bitmaps themselves, but instead teaches generating entire on-screen displays using stored graphics (Hendricks, col. 24, lines 6-42), where a disclosed source of said stored graphics are directly from the information signals sent from the headend or network controller and decoded by the receiving set top terminal (Hendricks, col. 18, lines 48-58).

Lastly, regarding claim 1, appellant argues that Gordon does not remedy the deficiencies of Hendricks. The objections to Hendricks have been addressed above.

**B. CLAIM 5 IS PATENTABLE UNDER 35 U.S.C. 103(A) OVER
HENDRICKS, GORDON, AND MILLER**

Here, appellant simply restates the objections to Hendricks addressed above regarding claim 1, and further states that Miller fails to address the deficiencies.

**C. CLAIM 7 IS PATENTABLE UNDER 35 U.S.C. 103(A) OVER
HENDRICKS, GORDON, MILLER, AND HOARTY**

Here, appellant argues that Hoarty fails to disclose changing a display to a new broadcast video display upon termination of the navigation command, citing that Hoarty is simply silent on any disclosure of termination of a navigation command.

In response, appellant is correct in that Hoarty is silent regarding changing a display to a new broadcast video display upon termination of the navigation command. This is, however, irrelevant. The examiner relied upon Miller to teach this feature, not Hoarty (see Miller, col. 13, lines 55-61).

**D. CLAIMS 9 AND 10 ARE PATENTABLE UNDER 35 U.S.C. 103(A)
OVER HENDRICKS, GORDON, AND BOLANOS**

First, appellant reiterates the reasons why it is believed Hendricks and Gordon fail to anticipate the claimed invention as applied to claim 1 above. Appellant then further states, without supporting argument, that Hendricks and

Gordon fail to suggest that the bitmap for the channel information window is overlaid over the broadcast video presentation and obscures at least a portion of the broadcast video presentation in the video stream.

In response, the examiner expressly pointed out where in the prior art said overlay is taught. Both in Hendricks, "...the channel information window overlays and obscures a portion of the particular broadcast video display (col. 18, lines 11-27)" [see above regarding claims 9 and 10 under the 'Grounds of Rejection'] and Gordon "...downloaded graphics used in displaying overlays atop of video content are downloaded as bitmaps (col. 7, lines 7-40), and elements on a display screen can be selectively masked and displayed (such features disclosed as providing an enhancement to the display, col. 8, lines 8-22)." [see above regarding claims 9 and 10 under the 'Grounds of Rejection'].

Second, appellant states that because the embodiment in which Bolanos discloses downloading interface graphics on-demand is an interface for controlling playback of particular media programs rather than a channel information window as claimed, the combination of Hendricks, Gordon, and Bolanos does not teach the claimed step of receiving at the headend from the terminal a signal to activate the channel information window.

In response, the graphical user interface of Bolanos is not limited to VCR style controls for affecting playback of selected content. The interface requested by a terminal that is received from a server on demand is in fact analogous to a

channel information window (see Bolanos, fig. 1 and col. 2 line 66 - col. 3 line 12 "For example, the interface may include a function that allows the user to select an audiovisual program from a displayed list of audiovisual programs available for viewing."). Thus, requesting and displaying the interface taught by Bolanos is analogous to displaying the program guide interface taught by Hendricks, therefore the combination thereof results in transmitted the graphical information for a one time download upon request for activation from the terminal.

**E. CLAIM 13 IS PATENTABLE UNDER 35 U.S.C. 103(A) OVER
HENDRICKS, GORDON, AND BOLANOS**

Here, appellant simply restates the objections to Hendricks, Gordon, and Bolanos addressed above regarding claims 1, 9, and 10.

**F. CLAIM 14 IS PATENTABLE UNDER 35 U.S.C. 103(A) OVER
HENDRICKS, GORDON, AND MACINNIS**

Here, appellant argues that MacInnis fails to clearly teach continuously downloading data that would be analogous to downloading bitmaps for channel information windows, citing that MacInnis only goes so far as to teach continuously downloading a portion of a table to from a transmitting source over a network.

In response, it must be noted that MacInnis teaches continuously broadcasting all the cited data, not just portions of a table. MacInnis explicitly

teaches data carousels which continuously broadcast all versions of the software modules available over the network, which are then retrieved by the receiving terminals in a discretionary manner rather than upon request (MacInnis, col. 4, lines 19-41, "The actual downloading procedure may be accomplished by selectively extracting the module from a separate channel on which transmitting source 202 **continuously broadcasts** all versions of all the modules in a loop, or by other means." [emphasis added]).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Dominic D Saltarelli/

Primary Examiner, Art Unit 2421

Conferees:

/John W. Miller/

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